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F.#2016R00____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ NOV 17 2016 ★
LONG ISLAND OFFICE

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UNITED STATES OF AMERICA

- Against -

JONATHAN HERNANDEZ,
also known as "Travieso,"

Defendant.

COMPLAINT AND AFFIDAVIT
IN SUPPORT OF AN APPLICATION
FOR AN ARREST WARRANT

(18 U.S.C. §§ 1959(a)(3)
and 2)

- - - - - X

MJ - 16 1031

EASTERN DISTRICT OF NEW YORK, SS:

SEAN C. MCMULLEN, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, on or about October 7, 2015, within the Eastern District of New York, the defendant JONATHAN HERNANDEZ, also known as "Travieso," together with others, for the purpose of maintaining and increasing position in La Mara Salvatrucha, also known as the MS-13 street gang (the "MS-13"), an enterprise that was engaged in racketeering activity, did knowingly and intentionally assault Jane Doe and John Doe,

individuals whose identities are known to the government, with one or more dangerous weapons, to wit: baseball bats and pipes, in violation of New York Penal Law Section 120.05(2).

(Title 18, United States Code, Sections 1959(a)(3) and 2).

The source of your deponent's information and the grounds for his belief are as follows:^{1/}

1. I have been a Special Agent with the FBI for approximately 20 years. I am currently assigned to the FBI's Long Island Gang Task Force (the "Task Force"), which is comprised of agents and officers of the FBI, Nassau County Police Department, Nassau County Sheriff's Department, Suffolk County Police Department ("SCPD"), Suffolk County Probation, Suffolk County Sheriff's Department and Rockville Centre Police Department. The primary mission of the Task Force is to combat violent crime perpetrated by street gang members. The information contained in this affidavit comes from first-hand knowledge, surveillance, interviews of gang members, my discussions with witnesses involved in the investigation, my discussions with other agents and officers, and a review of reports and evidence related to this investigation.

^{1/} Because the purpose of this affidavit is to establish only probable cause to arrest the defendant, I have not set forth a description of all the facts of which I am aware.

La Mara Salvatrucha

2. Many of the cases investigated by the Task Force involve members of the MS-13. The MS-13 constitutes an "enterprise" as defined in Section 1959(b)(2) of Title 18, United States Code, that is, a group of individuals associated in fact that engages in, and the activities of which affect, interstate and foreign commerce. Furthermore, the MS-13, through its members and associates, engages in racketeering activity, as defined in Title 18, United States Code, Sections 1959(b)(1) and 1961(1), that is, acts and threats involving murder, in violation of the laws of the State of New York, and narcotics trafficking, in violation of Title 21, United States Code, Sections 841 and 846. Over the past several years, dozens of MS-13 members have been indicted and convicted in the Eastern District of New York for, among other things, murder, conspiracy and assaults, all committed in violation of Title 18, United States Code, Section 1959(a).

3. The MS-13, primarily comprised of immigrants from El Salvador and Honduras, has members located throughout Long Island and the United States. In the United States, major MS-13 chapters, or "cliques," have been established in New York, Maryland, Virginia, North Carolina, Texas, California and elsewhere. Following induction, members of the MS-13 sometimes signify their membership with gang-related tattoos. On Long

Island, MS-13 cliques have been established in various towns including Hempstead, Freeport, Westbury, Roosevelt, Huntington, Brentwood and Islip. The cliques routinely hold meetings to plan criminal activity and members pay dues into a clique treasury. The treasury funds are used to purchase firearms and ammunition and to promote other illegal activity. Inter-clique meetings, called "Universals," are used to coordinate criminal activities among different cliques. Participation in criminal activity by a member, especially violence directed at rival gangs or police informants, increases the respect accorded to that member and could result in a promotion to a leadership position. On Long Island, MS-13 members are frequently involved in violent altercations with members of rival gangs such as the 18th Street gang, Salvadorans With Pride, the Latin Kings, the Bloods and Goon Squad. Long Island MS-13 members have repeatedly carried out assaults, stabbings and shootings targeting members of rival gangs and others, including MS-13 members believed to be cooperating with law enforcement. Long Island MS-13 members have committed numerous murders on behalf of the gang.

4. The defendant JONATHAN HERNANDEZ, also known as "Travieso," has been identified as a member of the Sailors Locos Salvatruchas ("SLS") clique of the MS-13 by numerous sources of evidence, including confidential sources, whose identities are

known to the government and who, they themselves, are either members or associates of the MS-13.

Assault with Dangerous Weapons of Jane Doe and John Doe

5. On October 7, 2015 at approximately 10:45 p.m., Jane Doe and John Doe were with a group of other individuals, at least one of whom was believed by the MS-13 to be a member of a rival gang, in the athletic fields adjacent to the Brentwood East Elementary and Brentwood East Middle Schools ("Brentwood East Campus") in Brentwood, New York. While Jane Doe and John Doe were at the Brentwood East Campus with the other individuals, their group was confronted by the defendant JONATHAN HERNANDEZ, also known as "Travieso," and another individual (hereinafter, "Co-Conspirator #1"), whose identity is known by the government and who has also been identified as a member of the SLS clique of the MS-13. When Jane Doe and John Doe and their group attempted to leave, the defendant JONATHAN HERNANDEZ, also known as "Travieso" and Co-Conspirator #1 identified themselves as members of the MS-13 and ordered the group to stop. Jane Doe, John Doe and their group complied with the request and were soon surrounded by HERNANDEZ, Co-Conspirator #1 and three other individuals (hereinafter, "Remaining Co-Conspirators").

6. Once Jane Doe, John Doe and the rest of their group were surrounded, the defendant JONATHAN HERNANDEZ, also known as

"Travieso," Co-Conspirator #1 and the Remaining Co-Conspirators began to assault the group with the bats and pipes, causing them to flee. The group was able to run away, except for Jane Doe, who was not able to run as fast as the rest of the group. As she lagged behind, John Doe stayed with her and attempted to assist Jane Doe in escaping, which allowed HERNANDEZ, Co-Conspirator #1 and the Remaining Co-Conspirators to overtake Jane Doe and John Doe in an outside vestibule of Brentwood East Elementary School. Once overtaken, HERNANDEZ, Co-Conspirator #1 and the Remaining Co-Conspirators began hitting Jane Doe and John Doe multiple times with the weapons while repeatedly screaming "La Mara," which means MS-13. John Doe attempted to protect Jane Doe by covering her body with his body and suffered a broken hand and deep lacerations to the face where the weapons struck him, which required hospital treatment. Jane Doe suffered severe pain throughout her body where the weapons struck her and her cell phone was taken during the course of the assaults.

6. Subsequent to the assaults of Jane Doe and John Doe, John Doe identified a picture of Co-Conspirator #1 on social media and provided it to the SCPD. On October 21, 2015, John Doe observed Co-Conspirator #1 with three other males and informed the SCPD. Thereafter that same day, the SCPD encountered Co-Conspirator #1 and placed him under arrest. Subsequent to his


arrest, Co-Conspirator #1 waived his rights in Spanish and admitted, in sum and substance, that he and the defendant JONATHAN HERNANDEZ, also known as "Travieso," were involved in a physical altercation at the Brentwood East Campus in early October of 2015. The defendant JONATHAN HERNANDEZ, also known as "Travieso," was also arrested by the SCPD on October 21, 2015. Subsequent to his arrest, the defendant was advised of his rights in Spanish and waived them in writing. The defendant then provided the SCPD with a written statement wherein he admitted, in sum and substance, that he and Co-Conspirator #1 were involved in a physical altercation with members of another group in early October 2015 at the Brentwood East Campus.

7. The defendant JONATHAN HERNANDEZ, also known as "Travieso," was charged in state court in Suffolk County in connection with the assaults of Jane Doe and John Doe and charged with two counts of robbery in the first degree and one count of assault in the second degree, in violation of New York Penal Law §§ 160.15(03) and 120.05(2), respectively. On February 29, 2016, HERNANDEZ pled guilty in Supreme Court Suffolk County to one count each of robbery in the third degree and assault in the third degree, in violation of New York Penal Law §§ 160.05 and 120.00, respectively, in connection with the assaults of Jane Doe and John

Doe. During his plea allocution, the defendant admitted that, on October 7, 2015, he used force to steal property from another person and intentionally caused physical injury to a second person. HERNANDEZ is awaiting sentence on his pleas of guilt to these state robbery and assault pleas.

WHEREFORE, it is respectfully requested that an arrest warrant be issued for the defendant JONATHAN HERNANDEZ, also known as "Travieso," so that he may be dealt with according to law.

Finally, your deponent respectfully requests that this Affidavit and the arrest warrant be filed under seal due to the ongoing nature of this investigation and to avoid alerting HERNANDEZ of the existence of the warrant.



SPECIAL AGENT SEAN C. MCMULLEN
Federal Bureau of Investigation

Sworn to before me this
17th day of November, 2016

/s/ Steven I. Locke

THE HONORABLE STEVEN I. LOCKE
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK